

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal Communications Commission's)	
Consultative Role,)	GN Docket No. 09-40
American Recovery and Reinvestment Act of)	
2009 Broadband Initiatives)	

To: Marlene H. Dortch, Office of the Secretary

JOINT COMMENTS OF THE
NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE
AND DIGITALBRIDGE COMMUNICATIONS CORP.

The National Rural Telecommunications Cooperative ("NRTC") and DigitalBridge Communications Corp. ("DBC") hereby provide comments to the Federal Communications Commission ("Commission") regarding the consultative role the Commission is to play with respect to implementation of the broadband provisions of the American Recovery and Reinvestment Act of 2009¹ (the "Stimulus Bill").

This proceeding and the broadband opportunities presented by the Stimulus Bill are of critical interest and importance to NRTC, its rural cooperative members, their customers throughout rural America, and DBC. With the support of broadband stimulus funds, NRTC and DBC have a plan to bring robust, affordable, reliable, sustainable, scalable and upgradeable wireless broadband services to the neediest communities across our nation. In these comments, NRTC and DBC suggest to the Commission sensible definitions for the terms "unserved," "underserved" and "broadband." A more comprehensive set of comments was filed today by NRTC and DBC with the Department of Commerce, National Telecommunications and Information Administration ("NTIA"), and the Department of Agriculture, Rural Utilities Service ("RUS").

¹ The American Recovery and Reinvestment Act of 2009, H.R. 1, 111th Cong. (2009).

Broadly, stimulus funds to be administered by RUS are intended to bring broadband to rural areas; NTIA's broadband initiative is intended to reach a number of important constituencies, including unserved and underserved markets. Unserved and underserved areas could, of course, be located in rural communities. Because the definitions of "unserved" and "underserved" are so important to the two programs, NRTC and DBC urge the Commission to adopt simple and sensible definitions that have the support of organizations with direct experience serving these often-overlooked communities.

A. There Should Be A Presumption That A Rural County Is Unserved Or Underserved.

According to the Pew Internet & American Life Project² (the "Pew Study") rural Americans continue to lag behind urban and suburban consumers in broadband adoption. The Pew Study reflects that while urban and suburban users have broadband access at rates of 57 percent and 60 percent, respectively, only 38 percent of rural users have access to broadband.³ Given this, there should be a presumption that all counties designated as "rural" are inherently either "unserved" or "underserved" without further demonstration. AT&T agreed in its Rural Broadband Strategy comments to the FCC that the vast majority of areas unserved by broadband are located in rural America.⁴ Comments filed by the National Rural Electric Cooperative Association ("NRECA") also

² See "Home Broadband Adoption 2008" (July 2008) available at <http://www.pewinternet.org/Reports/2008/Home-Broadband-2008.aspx> ("Pew Study").

³ Pew Study at p. 3.

⁴ Comments of AT&T Inc., GN Docket 09-29 at 1 (March 25, 2009) ("Population density in such areas is generally lower than in urban and suburban areas, which explains, in part, why the vast majority of areas unserved by broadband are located in rural America.").

supported this proposition.⁵ The RUS definition of “rural” is sufficient for this purpose: no more than 20,000 inhabitants in the county.⁶

To the extent a broadband applicant seeks to serve an unserved or underserved community that is not rural, as defined by RUS, the applicant should be charged with proving that the community they wish to serve is either “unserved” or “underserved.” DBC and NRTC offer the following definitions of these terms based upon their own experience serving unserved and underserved communities.

B. Definition of Unserved.

An unserved area should be defined as any geographic area proposed to be served where 60 percent or more of the households lack access to more than one terrestrial provider⁷ offering broadband service (as broadband will be defined by the FCC). DBC and NRTC support the above definition of unserved because in many of the communities they serve, DSL or cable might be available to parts of the community, but sections of the community remain unserved with adequate and affordable service. At the recent oversight hearing, Chairman Boucher discussed the definition of unserved and cautioned that it would not be prudent to “exclude areas where there is a smattering of broadband service but where the service is generally absent throughout the community.”⁸ Chairman Boucher’s concept of unserved communities is in line with the views of DBC and NRTC.

⁵ Comments of the National Rural Electric Cooperative Association, GN Docket 09-29 at 2 (March 25, 2009) (“For the purposes of broadband funding, there should be a presumption that all counties designated as ‘rural’ are ‘unserved’ or ‘underserved’ and thereby eligible for funding under the ARRA.”).

⁶ See 7 C.F.R. § 1739.3.

⁷ Terrestrial service is emphasized because of the ubiquity of satellite service.

⁸ *Oversight of the American Recovery and Reinvestment Act of 2009: Broadband*, 111th Cong. 2 (2009) (testimony of Chairman Rick Boucher).

C. Definition of Underserved.

An underserved area should be defined as any geographic area proposed to be served where 30 percent or more of the households lack access to more than one terrestrial provider offering broadband service (as broadband will be defined by the FCC). With respect to “underserved” populations, Chairman Boucher’s view is that it would be “appropriate to provide [stimulus] support where there is currently only one broadband provider, so a community gets the benefit of market competition... .”⁹ However, Chairman Boucher also indicated that a market may be underserved even if it has several service providers, if each is offering slow or dial-up connections.¹⁰ DBC and NRTC agree, the concept of being “served” must mean access to more than one affordable and adequate broadband choice.

D. Definition of Broadband.

DBC and NRTC are of the view that the Agencies should carefully consider a new definition of broadband and avoid setting mandatory speeds that would mandate a gold standard of service. If the goal is to get broadband to the greatest number of people, then “great” could be the enemy of “good.” Instead, the Agencies should require that broadband systems offer reliable and sustainable service, at initial speeds of at least 1 MB, that are scalable and upgradeable and can easily adapt and increase broadband capacity as technology improves. Of course faster speeds are possible using WiMAX and other technologies, but the focus of the Agencies at this time should not be on the highest potential speeds. Rather, focus should be on the minimum speeds that will bring meaningful broadband to consumers that need it, and speeds that are realistic given the need to balance customer demands on the network, peak usage patterns, and licensed spectrum capacity. For most rural, unserved and underserved communities, there needs to be a realistic evaluation of what speed

⁹ *Id.*

¹⁰ *Id.*

is fast enough, assuring that the greatest number of people are served with meaningful broadband at the lowest cost. Support for appropriate broadband solutions for rural communities was a topic of comment in the Rural Broadband Strategy comments filed with the FCC by the California Emerging Technology Fund, Consumer Federation of America, Consumer's Union, DBC and NRTC.¹¹

Respectfully Submitted,

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¹¹ Comments of California Emerging Technology Fund, GN Docket 09-29 at 2 (March 25, 2009) ("Policies must allow each rural community to find broadband solutions that work. This requires: Technology solutions for their terrain and population distribution; Products and services appropriate for the residents and commercial establishments; and Local knowledge of existing infrastructure."); Comments of the Consumer Federation of American and Consumer Union, GN Docket 09-29 at 3 (March 25, 2009) ("With over 40 percent of households lacking broadband connectivity and as much as ten percent having no broadband service available, maximum coverage should be the goal, rather than chase a gold-plated [sic] network that will restrict the number of households that can be reached in the near future."); Comments of DigitalBridge Communications Corp., GN Docket 09-29 at 1 (March 25, 2009) ("[The Agencies should] avoid setting mandatory 'speeds' for broadband. Require, instead, that broadband systems deployed in rural areas are 'future-proofed' and can easily adapt as technology improves. For rural areas there needs to be a realistic evaluation of what speed is fast enough, assuring that the greatest number of people are served with meaningful broadband at the lowest cost."); Comments of the National Rural Telecommunications Cooperative, GN Docket 09-29 (March 25, 2009) ("Agencies should avoid any hard-line data speed standards and any 'gold standard' level of service. Without question, the faster a service is the better. But in this case, great is the enemy of good. With millions of Americans lacking broadband, the goal should be to ensure access to [the] best reasonable level of service, given all circumstances.")

CERTIFICATE OF SERVICE

I, Peter M. Andros, certify on this 13th day of April, 2009, a copy of the foregoing Joint Comments of National Rural Telecommunications Cooperative and DigitalBridge Communications Corp. was served via electronic mail to the following:

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